

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

KNIFE RIVER CORPORATION - SOUTH,

Plaintiff,

¶¶¶¶¶¶¶¶¶¶¶¶

V.

Spiral binding

**ZURICH AMERICAN INSURANCE
COMPANY and AMERICAN
GUARANTEE AND LIABILITY
INSURANCE COMPANY,**

CIVIL ACTION NO. 3:21-cv-01344-B

Defendants.

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**UNOPPOSED MOTION FOR FINAL ORDER OF DISMISSAL WITH PREJUDICE
(IN LIGHT OF PARTIES' CONFIDENTIAL SETTLEMENT AGREEMENT)
FILED BY PLAINTIFF KNIFE RIVER CORPORATION – SOUTH**

Plaintiff and General Contractor **KNIFE RIVER CORPORATION – SOUTH** (“Knife River,” or “KRC”) files this Unopposed Motion for Final Order of Dismissal With Prejudice (In Light of Parties’ Confidential Settlement Agreement) and respectfully shows as follows:

1. The Litigants Have Signed, Memorialized and Performed Their Settlement

By mutually signed Tex. R. Civ. P. 11 Confidential Settlement Offer and Agreement, KRC, its Subcontractor AWP, Inc., and AWP, Inc.’s insurers Zurich American Insurance Company as well as American Guarantee and Liability Insurance Company, *inter alia*, confidentially resolved all the disputes between them in the above-captioned litigation. Since the signing of that Rule 11 Settlement Agreement, these parties’ have completed memorialization of their agreement and have performed its obligations. Accordingly, there no longer exists any live case or controversy in the above-captioned litigation between them.

2. General Contractor KRC and Subcontractor AWP, Inc. Agree Final Dismissal Is Now Appropriate – And Defendant Insurers’ Counsel Has Also Responded that the Insurers Are Unopposed to this Motion or Proposed Order.

In accordance with their Rule 11 Settlement Agreement and in light of the foregoing, KRC respectfully requests that the Court sign and have entered a Final Order of Dismissal With Prejudice to conclude *in toto* the above-captioned litigation between KRC and Zurich American Insurance Company as well as American Guarantee and Liability Insurance Company and hereby separately files a proposed Final Order of Dismissal for the Court’s convenience. AWP, Inc., and the Defendant Insurers Zurich American Insurance Company and American Guarantee and Liability Insurance Company, through all their respective counsel, have communicated that AWP and the Defendant Insurers are ***unopposed*** to this requested dismissal relief.

3. Prayer

Plaintiff Knife River Corporation – South respectfully prays that the Court sign and have entered a Final Order of Dismissal With Prejudice disposing of all remaining claims between the litigants in the above-captioned matter in the form of its separately-filed proposed form of order.

August 2, 2022

Respectfully submitted,

FEE, SMITH & SHARP LLP

/s/ Thomas W. Fee

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ATTORNEYS FOR THE PLAINTIFF

KNIFE RIVER CORPORATION – SOUTH

CERTIFICATE OF CONFERENCE

I certify that on July 28, 2022, I conducted a conference via email with counsel for AWP, Inc., with Mr. James W. Goldsmith, Esq. of the Lanza Law Firm, P.C., and that said counsel communicated he is ***unopposed*** to the relief requested in the foregoing motion.

I further certify that on July 28, 2022, my office conferred via email with counsel for Zurich American Insurance Company as well as American Guarantee and Liability Insurance Company, with Mr. Blair Dancy, Esq. of the Cain & Skarnulis PLLC Law Firm, and that said counsel communicated that he is ***unopposed*** to the relief requested in the foregoing motion.

/s/ Thomas W. Fee
THOMAS W. FEE

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of August, 2022, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. The electronic filing system sent a notice of electronic filing to the attorneys of record below who have consented in writing to accept this notice as service of this document by electronic means.

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/s/ Thomas W. Fee

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